

TRIPLETT, WOOLF & GARRETSON, LLC

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ORDINANCE NO. 48-416

OF THE  
CITY OF WICHITA, KANSAS

AUTHORIZING THE ISSUANCE OF

\$155,000,000  
Hospital Facilities Refunding and Improvement Revenue Bonds  
Series III, 2009  
(Via Christi Health System, Inc.)

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(Published in *The Wichita Eagle*, September 19, 2009)

ORDINANCE NO. 48-416

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS HOSPITAL FACILITIES REFUNDING AND IMPROVEMENT REVENUE BONDS (VIA CHRISTI HEALTH SYSTEM, INC.) IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF \$155,000,000 FOR THE PURPOSES OF REFUNDING CERTAIN OUTSTANDING 1992 HOSPITAL FACILITIES IMPROVEMENT AND REFUNDING REVENUE BONDS AND PURCHASING, ACQUIRING, CONSTRUCTING AND FURNISHING A NEW ACUTE CARE HOSPITAL FACILITY; PRESCRIBING THE FORM AND AUTHORIZING EXECUTION OF A BOND INDENTURE BY AND BETWEEN THE CITY AND THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS BOND TRUSTEE; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A FOURTH SUPPLEMENTAL HOSPITAL SUBLEASE AND OBLIGATION NO. 4A BY AND BETWEEN THE CITY AND VIA CHRISTI REGIONAL MEDICAL CENTER, INC.; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A WEST HOSPITAL LEASE BY AND BETWEEN THE CITY AND VIA CHRISTI REGIONAL MEDICAL CENTER, INC.; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A WEST HOSPITAL SUBLEASE AND OBLIGATION NO. 4B BY AND BETWEEN THE CITY AND VIA CHRISTI REGIONAL MEDICAL CENTER, INC.; APPROVING THE FORM OF GUARANTY AGREEMENT AND OBLIGATION NO. 4AB BY AND BETWEEN VIA CHRISTI REGIONAL MEDICAL CENTER, INC. AND THE BOND TRUSTEE; PRESCRIBING THE FORM AND AUTHORIZING EXECUTION OF A TAX COMPLIANCE AGREEMENT BY AND BETWEEN THE CITY, THE BOND TRUSTEE, VIA CHRISTI HEALTH SYSTEM, INC., AND VIA CHRISTI REGIONAL MEDICAL CENTER; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF BOND PURCHASE AGREEMENTS BY AND BETWEEN THE CITY, VIA CHRISTI HEALTH SYSTEM, INC. AND MORGAN STANLEY AND JP MORGAN CHASE, AS PURCHASERS OF THE 2009 BONDS.

WHEREAS, the City of Wichita, Kansas (the “Issuer”) is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, and K.S.A. 10-116a, all as amended (the “Act”), to acquire, construct, improve and equip certain facilities (as defined in the Act) for hospital purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities, as well as to refund any such revenue bonds previously issued; and

WHEREAS, pursuant to the Act, the Issuer has previously issued certain (i) City of Wichita, Kansas, Hospital Facilities Improvement and Refunding Revenue Bonds, Series III-A-1, 1992

SAVRS<sup>SM</sup> (St. Francis Regional Medical Center, Inc.) (the “Series III-A-1, 1992 Bonds”); (ii) City of Wichita, Kansas, Hospital Facilities Improvement and Refunding Revenue Bonds, Series III-A-2, 1992 RIBS<sup>SM</sup> (St. Francis Regional Medical Center, Inc.) (the “Series III-A-2, 1992 Bonds”); and (iii) City of Wichita, Kansas, Hospital Facilities Improvement and Refunding Revenue Bonds, Series III-A-3, 1992 (St. Francis Regional Medical Center, Inc.) (the “Series III-A-3, 1992 Bonds”); and

WHEREAS, the Issuer has previously acquired a leasehold interest in certain hospital facilities constituting the Via Christi Regional Medical Center, Inc. St. Francis Campus and St. Joseph Campus (the “Hospital Facilities”) and will acquire a leasehold interest in certain real property upon which the 2009 Project (as hereinafter defined) will be constructed, equipped, and operated (said property including the 2009 Project to be referred to as the “West Hospital Facilities”); and

WHEREAS, the Issuer and the Medical Center now deem it necessary and desirable that the Issuer issue its Hospital Facilities Refunding and Improvement Revenue Bonds (collectively, the “2009 Bonds”) for the purpose of (i) refunding the Series III-A-1, 1992 Bonds, the Series III-A-2, 1992 Bonds and the Series III-A-3, 1992 Bonds (collectively the “Refunded Bonds”), (ii) providing a portion of the funds necessary to purchase, acquire, construct, furnish and equip a new acute care hospital facility and all necessary appurtenances thereto and ancillary improvements and associated property to be located at the Northeast corner of 151<sup>st</sup> Street West and 21<sup>st</sup> Street North, just to the west of the City’s existing corporate limits (the “2009 Project”), and (iii) paying a portion of the Costs of Issuance to be incurred in connection with the issuance of the 2009 Bonds;

WHEREAS, payment of the principal of, redemption premium, if any, and interest on the 2009 Bonds will be further secured pursuant to the terms of a Master Trust Indenture by and between Via Christi Health System, Inc., Via Christi Regional Medical Center, Inc., Mt. Carmel Regional Medical Center, Inc., Via Christi Rehabilitation Center, Inc., all as members of the Obligated Group, and The Bank of New York Mellon Trust Company, N.A., as Master Trustee (all as supplemented and amended, the “Master Trust Indenture”); and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of said 2009 Bonds to execute and deliver a Bond Indenture, dated as of September 15, 2009 (the “Bond Indenture”) with The Bank of New York Mellon Trust Company, N.A., as Bond Trustee (the “Bond Trustee”); to execute and deliver a Fourth Supplemental Sublease and Obligation No. 4A, dated as of September 15, 2009, with Via Christi Regional Medical Center, Inc., as Subtenant; to execute and deliver a West Hospital Lease with Via Christi Regional Medical Center, Inc., as Lessor; to execute and deliver a Sublease and Obligation No. 4B with Via Christi Regional Medical Center, Inc., as Subtenant; to execute and deliver a Tax Compliance Agreement, dated as of September 15, 2009, with Via Christi Health System, Inc. and the Bond Trustee; and to execute and deliver the necessary Bond Purchase Agreement(s) with Morgan Stanley & Co., Incorporated and JPMorgan Chase Bank, N.A. (collectively, the “Underwriters”) and Via Christi Health System, Inc. (such agreements collectively herein referred to as the “Bond Purchase Agreement(s)”).

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Bond Indenture, Hospital Sublease and West Hospital Sublease, as hereinafter authorized and defined.

Section 2. Authority to Refund the Refunded Bonds. Pursuant to the Act, the Issuer is hereby authorized to provide for the refunding, early redemption and retirement of the Refunded Bonds (as hereinafter defined) in accordance with the terms and provisions of the Bond Indenture, as hereinafter authorized and defined.

Section 3. Authority to Cause the 2009 Project to be Acquired, Constructed and Equipped. Pursuant to the Act, the governing body of the Issuer hereby declares that the 2009 Project (as hereinafter defined), if in being, would promote the welfare of the City of Wichita, Kansas and the Issuer is hereby authorized to cause the 2009 Project to be purchased, acquired, constructed and installed all in the manner and as more particularly described in the Bond Indenture, the Hospital Sublease and the West Hospital Sublease, as hereinafter authorized and defined.

Section 4. Authorization of and Security for the Bonds. There are hereby authorized and directed to be issued certain Hospital Facilities Refunding and Improvement Revenue Bonds in one or more series aggregating the total principal amount of \$155,000,000 (the "2009 Bonds"), as provided in the Bond Indenture dated as of September 15, 2009 (the "Bond Indenture"), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A. (the "Bond Trustee"), pursuant to the Act, for the purpose of (a) refunding the Refunded Bonds, (b) providing the funds necessary to purchase, acquire, construct, furnish and equip the 2009 Project, and (c) paying the Costs of Issuance to be incurred in connection with the issuance of the 2009 Bonds. The 2009 Bonds shall bear such series designations, shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity, and shall be issued in the manner as prescribed and subject to the provisions, covenants and agreements as shall be set forth in the Bond Indenture hereinafter authorized and defined. The maturity dates and respective interest rates on the 2009 Bonds bearing interest at a fixed rate shall be as established by the appropriate Bond Purchase Agreement and the true interest cost on such 2009 Bonds shall not exceed 7%. The 2009 Bonds shall be special limited obligations of the Issuer payable solely from the revenues derived by the Issuer pursuant to the Hospital Sublease, West Hospital Sublease or otherwise in connection with the Hospital Facilities or the West Hospital Facilities. The 2009 Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the Issuer within the meaning of any constitutional or statutory provision and shall not be payable in any manner from taxation.

Section 5. Authorization of Bond Indenture. The Issuer is hereby authorized to enter into and deliver the Bond Indenture dated as of September 15, 2009 (the "Bond Indenture"), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri, as Bond Trustee, under which the Issuer shall pledge and assign to the Bond Trustee, for the benefit of

the holders of the 2009 Bonds, the Trust Estate created thereby, all upon the terms and conditions set forth in said Bond Indenture.

Section 6. Sublease of the Hospital Facilities. The Issuer shall sublease the Hospital Facilities to Via Christi Regional Medical Center, Inc. pursuant to and in accordance with the provisions of a Fourth Supplemental Sublease and Obligation No. 4A, dated as of September 15, 2009 (the “Fourth Supplemental Hospital Sublease”), which Fourth Supplemental Hospital Sublease supplements and amends a certain Sublease and Obligation No. 1 dated as of February 1, 1992, as previously supplemented and amended.

Section 7. Lease of the West Hospital Facilities. The Issuer shall lease the West Hospital Facilities from Via Christi Regional Medical Center, Inc., pursuant to and in accordance with the provisions of a West Hospital Lease, dated as of September 15, 2009 (the “West Hospital Lease”), by and between Via Christi Regional Medical Center, Inc. and the Issuer.

Section 8. Sublease of the West Hospital Facilities. The Issuer shall sublease the West Hospital Facilities, to Via Christi Regional Medical Center, Inc. pursuant to and in accordance with the provisions of a West Hospital Sublease and Obligation 4B, dated as of September 15, 2009 (“West Hospital Sublease”), by and between Via Christi Regional Medical Center, Inc. and the Issuer.

Section 9. Approval of the Guaranty Agreement. The form of the Guaranty Agreement and Obligation No. 4AB, dated as of September 15, 2009, pursuant to which Via Christi Regional Medical Center, Inc. guarantees to the Bond Trustee, for the benefit of the owners of the 2009 Bonds, the full and prompt payment of the principal of, redemption premium, if any, and interest of the 2009 Bonds, is hereby approved.

Section 10. Authorization of Bond Purchase Agreement(s). The 2009 Bonds shall be sold and delivered to the Underwriters upon the terms and subject to the provisions of, and the Issuer is hereby authorized to enter into, the Bond Purchase Agreement(s), by and between the Issuer, Via Christi Health System, Inc. and the Underwriters.

Section 11. Authorization of Tax Compliance Agreement. The Issuer is hereby authorized to enter into a Tax Compliance Agreement, dated as of September 15, 2009 (the “Tax Compliance Agreement”), by and between the Issuer, Via Christi Health System, Inc., Via Christi Regional Medical Center, Inc. and the Bond Trustee.

Section 12. Execution of Bonds and Agreements. The Mayor or Vice Mayor of the City of Wichita, Kansas is hereby authorized and directed to execute the 2009 Bonds and deliver same to the Bond Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Bond Indenture. The Mayor or Vice Mayor is hereby further authorized and directed to execute and deliver the Bond Indenture, the Fourth Supplemental Hospital Sublease, the West Hospital Lease, the West Hospital Sublease, the Tax Compliance Agreement and the Bond Purchase Agreement(s) for and on behalf of and as the act and deed of the Issuer in substantially the form presented today with such minor corrections or amendments thereto as the Mayor or Vice

Mayor shall approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and give effect to the purposes and intent of this Ordinance. The City Clerk or any Deputy City Clerk of the Issuer are hereby authorized and directed to attest the execution of the Bonds, the Bond Indenture, the Fourth Supplemental Hospital Sublease, the West Hospital Lease, the West Hospital Sublease, the Tax Compliance Agreement and the Bond Purchase Agreement(s) and such other documents, certificates and instruments as may be necessary or desirable to carry out and give effect to the intent of this Ordinance.

Section 13. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the 2009 Bonds, Bond Indenture, the Fourth Supplemental Hospital Sublease, the West Hospital Lease, the West Hospital Sublease, the Tax Compliance Agreement and the Bond Purchase Agreement(s), all as necessary to carry out and give effect to the transactions contemplated hereby and thereby.

Section 14. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body and publication once in the official newspaper of the Issuer.

*[Remainder of Page Intentionally Left Blank]*

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas this 15<sup>th</sup> day of September, 2009.

CITY OF WICHITA, KANSAS

[seal]

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

By \_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney